

1
2
3
4
5
6 **UNITED STATES DISTRICT COURT**
7 **WESTERN DISTRICT OF WASHINGTON**
8 **AT SEATTLE**

9 UNITED STATES OF AMERICA,

10 Plaintiff,

11 Case No. CR00-327-TSZ

12 v.

13 DAVID ARNOLD BURKE,

14 Defendant.

15 **PROPOSED FINDINGS OF FACT**
16 **AND DETERMINATION AS TO**
17 **ALLEGED VIOLATIONS OF**
18 **SUPERVISED RELEASE**

19 **INTRODUCTION**

20 I conducted a hearing on alleged violations of supervised release in this case on June 18,
21 2012. The defendant appeared pursuant to a warrant issued in this case. The United States was
22 represented by Jill Otake, and defendant was represented by Paula Deutsch. Also present was
23 U.S. Probation Officer Jennifer Tien. The proceedings were digitally recorded.

19 **SENTENCE AND PRIOR ACTION**

20 Defendant was sentenced on September 29, 2000, by the Honorable Thomas S. Zilly for
21 armed bank robbery and bank robbery. He received 150 months detention and 5 years of
22 supervised release.

23 On January 24, 2012, a consented modification to include up to 120 days at the residential
reentry center (“RRC”) was ordered by the Court. Mr. Burke entered RRC on February 17,

1 2012, and was released on April 20, 2012. On May 21, 2012, a second consented modification
2 for an additional 180 days of RRC placement was ordered by the Court. Mr. Burke has not been
3 placed at the RRC pursuant to this order.

4 **PRESENTLY ALLEGED VIOLATIONS**

5 In a petition dated May 23, 2012, U.S. Probation Officer Jennifer Tien alleged that
6 defendant violated the following conditions of supervised release:

- 7 1. Using heroin and marijuana on or before February 15, 2012, in violation of standard
8 condition number 7.
- 9 2. Failing to report for urinalysis testing on April 27, 2012, in violation of the special
10 condition of drug aftercare.
- 11 3. Using heroin and cocaine on or before April 20, 2012, in violation of standard
12 condition number 7.
- 13 4. Failing to participate in substance abuse treatment as directed by the probation
14 officer, in violation of the special condition of drug aftercare.

15 **FINDINGS FOLLOWING EVIDENTIARY HEARING**

16 Defendant admitted the above violations, waived any hearing as to whether they occurred,
17 and was informed the matter would be set for a disposition hearing on August 2, 2012 at 1:30
18 p.m. before District Judge Thomas S. Zilly.

19 **RECOMMENDED FINDINGS AND CONCLUSIONS**

20 Based upon the foregoing, I recommend the court find that defendant has violated the

21 ///

22 ///

23 ///

1 conditions of his supervised release as alleged above, and conduct a disposition hearing.

2 DATED this 18th day of June, 2012.

3
4



5 BRIAN A. TSUCHIDA
6 United States Magistrate Judge
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23